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July 21, 2010

Environmental Quality Council
Legislative Environmental Policy Office
P.O. Box 201704
Helena MT 59620-1704

RE: LC 7000 and Air Quality Permits for portable biomass grinders and chippers.

Dear Council Members:

Since our first discussion on the topic of air quality permit requirements for portable grinders and chippers this last winter, the stakeholders, DEQ and EQC staffers have met on various occasions to develop a solution workable for all. You have received comments on the draft bill language developed by the EQC. Since that time, we have met again with DEQ to help fine tune the language.

Of concern to the stakeholders was the specificity of the original bill language to only include "grinders and chippers". With the likelihood of future regulatory issues surrounding air quality permits for other silvicultural activities still existing, we suggested a broader exemption for these low impact and temporary activities. To that end, we had proposed alternative language that would provide security against unreasonable air quality permitting regulation on silvicultural activities that have little impact on air quality, while at the same time, ensuring continued options for appropriate regulation of higher risk silvicultural activities such as open burning.

After meeting again with DEQ just two weeks ago, and discussion of terms and intents, we have developed an additional set of draft language that we feel meets the needs of stakeholders and concerns of the DEQ and others:

Add to 77-2-111 Section (1):

(c) any silvicultural activity or equipment, associated with the growing, harvesting, planting, transporting, or processing of forest products that is not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a; or

(d) a commercial operation relating to the activities or equipment referred to in subsection (1)(c) that remains in a single location for less than 12 months and is not subject to the requirements of 42 U.S.C. 7475, 7503, or 7661a. For the purposes of implementing subsections (1)(c) and (1)(d) silvicultural activity does not include silvicultural open burning.

This language mirrors the format of the agricultural exemption while being completely separate from the existing exemption language, thereby limiting any risk to the agricultural exemption. At the same time, we were careful to draft language that would still allow for appropriate regulation of higher risk silvicultural activities such as open burning or permanent operations.

EQC
JULY 22, 2010
EXHIBIT 7

Our intent is clear. We are trying to avoid unnecessary and burdensome regulation of silvicultural activities and equipment operation associated with the planting, growing, harvesting, processing and transporting of forest products from public and private lands across the state. The exemption is clearly not intended to include exemption from regulation of higher risk activities such as permanent installations, manufacturing or industrial operations or open burning activities. The activities and equipment used in silvicultural activities are very similar to those in agricultural activities, albeit on a much less frequent basis for a particular piece of property, and have minimal impact on air quality.

We hope that you will find the proposed language acceptable and proceed with the drafting of alternate bill language for consideration in the upcoming legislative session. Thank you for the opportunity to work together towards common sense solutions that works for Montana.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul R. McKenzie', with a long horizontal flourish extending to the right.

Paul R. McKenzie C.F.
Lands & Resource Manager
F.H. Stoltze Land & Lumber Co.